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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,186	08/03/2001	Paul A. Altieri	1937	7595

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EXAMINER

BHAT, NINA NMN

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/922,186	ALTIERI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	N. Bhat	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 8-10 is/are allowed.
- 6) ☒ Claim(s) 7 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 7 and 11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 7, applicant recites a dry converted starch having a retained solubles content greater than that of the corresponding dry converted starch prepared via conventional aqueous acid conversion methods. Applicant has not claimed the converted starch properties, the essence of applicant's claim 7 is that the dry starch has a retained solubles greater than conventional aqueous acid conversion, this is a feature of the starch, there is nothing to distinguish the starch from starches made by any other method other than aqueous acid conversion. Applicant has only taught a feature or property of the starch. The claim is unduly broad, vague and indefinite. Applicant is to draft the claim in clear, positive, meaningful language. The dry converted starch reads on any dry converted starch that is not aqueous acid treated. Applicant is further reminded that claim 7 is a product claim, there is no difference or further limitation in claim 11 which also a product.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lane et al.

Lane et al. teaches a process of making a dry converted starch is not prepared by aqueous acid treatment. The wet starch is mixed in the presence of a gaseous acid to acidify the starch to within a preferred pH range of 3.5 to 3.5. The converted starch would inherently have a greater content of retained solids as claimed by applicant.

Thus anticipating applicant's claims as drafted.[Note Column 13, lines 11]

Claims 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated clearly by Kasica et al.[EP 0 953 379].

Kasica et al. teach providing stable poly dextrans by acidifying the starch and dextrinizing under substantially anhydrous conditions using a fluidized bed reactor. [Note the abstract, note page 4 et seq. claims 8-13] The dry converted starch would inherently possess the retained solubles content greater than that of the corresponding dry converted starch prepared via conventional aqueous acid conversion methods.

3. Claims 1-6, and 8-10 are free of the prior art because the prior art fails to teach or suggest a process of converting starch comprising mixing a base starch with an acid, drying the mixture to substantially anhydrous state and heating the dried mixture for a time sufficient to produce a converted starch having a funnel flow viscosity of from about 5 to about 50 seconds. The prior art as described above does teach using an anhydrous acid treatment of a starch using a fluidized bed reactor to convert the starch however does not teach or suggest drying the mixture to produce a converted starch having a funnel flow viscosity from about 5 to about 50 seconds.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kyrger et al. teach a granular starch based gum, which are acid treated for use in lithographics.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 703-308-3879. The examiner can normally be reached on Monday-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.



N. Bhat  
Primary Examiner  
Art Unit 1761

November 4, 2003